

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 1229

93RD GENERAL ASSEMBLY
2006

5458L.06T

AN ACT

To repeal sections 135.327 and 135.333, RSMo, and to enact in lieu thereof two new sections relating to tax credits for children in crisis.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 135.327 and 135.333, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 135.327 and 135.333, to
3 read as follows:

135.327. 1. As used in this section, the following terms shall

2 **mean:**

3 (1) "CASA", an entity which receives funding from the court
4 appointed special advocate fund established under section 476.777,
5 RSMo;

6 (2) "Child advocacy centers", the regional child assessment
7 centers listed in subsection 2 of section 210.001, RSMo;

8 (3) "Contribution", amount of donation to qualified agency;

9 (4) "Crisis care", temporary care for children whose age ranges
10 from birth through seventeen years of age whose parents or guardian
11 are experiencing an unexpected and unstable or serious condition that
12 requires immediate action resulting in short term care, usually three
13 to five continuous, uninterrupted days, for children who may be at risk
14 for child abuse, neglect, or in an emergency situation;

15 (5) "Department", the department of revenue;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 **(6) "Director", the director of the department of revenue;**

17 **(7) "Qualified agency", CASA, child advocacy centers, or a crisis**
18 **care center;**

19 **(8) "Tax liability", the tax due under chapter 143, RSMo, other**
20 **than taxes withheld under sections 143.191 to 143.265, RSMo.**

21 **2.** Any person residing in this state who legally adopts a special needs
22 child on or after January 1, 1988, and before January 1, 2000, shall be eligible to
23 receive a tax credit of up to ten thousand dollars for nonrecurring adoption
24 expenses for each child adopted that may be applied to taxes due under chapter
25 143, RSMo. Any business entity providing funds to an employee to enable that
26 employee to legally adopt a special needs child shall be eligible to receive a tax
27 credit of up to ten thousand dollars for nonrecurring adoption expenses for each
28 child adopted that may be applied to taxes due under such business entity's state
29 tax liability, except that only one ten thousand dollar credit is available for each
30 special needs child that is adopted.

31 **[2.] 3.** Any person residing in this state who proceeds in good faith with
32 the adoption of a special needs child on or after January 1, 2000, shall be eligible
33 to receive a tax credit of up to ten thousand dollars for nonrecurring adoption
34 expenses for each child that may be applied to taxes due under chapter 143,
35 RSMo; provided, however, that beginning on or after July 1, 2004, [a minimum
36 of fifty percent] **two million dollars** of the tax credits allowed shall be allocated
37 for the adoption of special needs children who are residents or wards of residents
38 of this state at the time the adoption is initiated. Any business entity providing
39 funds to an employee to enable that employee to proceed in good faith with the
40 adoption of a special needs child shall be eligible to receive a tax credit of up to
41 ten thousand dollars for nonrecurring adoption expenses for each child that may
42 be applied to taxes due under such business entity's state tax liability, except
43 that only one ten thousand dollar credit is available for each special needs child
44 that is adopted.

45 **[3.] 4.** Individuals and business entities may claim a tax credit for their
46 total nonrecurring adoption expenses in each year that the expenses are incurred.
47 A claim for fifty percent of the credit shall be allowed when the child is placed in
48 the home. A claim for the remaining fifty percent shall be allowed when the
49 adoption is final. The total of these tax credits shall not exceed the maximum
50 limit of ten thousand dollars per child. The cumulative amount of tax credits
51 which may be claimed by taxpayers claiming the credit for nonrecurring adoption

52 expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million
53 dollars [and shall not exceed]. **The cumulative amount of tax credits that**
54 **may be claimed by taxpayers claiming the credit for nonrecurring**
55 **adoption expenses shall not be less than** four million dollars **but may be**
56 **increased by appropriation** in any one fiscal year beginning on or after July
57 1, 2004; provided, however, that [in the first ninety days] **by December thirty-**
58 **first** following each July first, if less than two million dollars in credits have been
59 issued for adoption of special needs children who are not residents or wards of
60 residents of this state at the time the adoption is initiated, the remaining amount
61 of the [four million dollar] cap shall be available for the adoption of special needs
62 children who are residents or wards of residents of this state at the time the
63 adoption is initiated. **For all fiscal years beginning on or after July 1,**
64 **2006, applications to claim the adoption tax credit for special needs**
65 **children who are residents or wards of residents of this state at the**
66 **time the adoption is initiated shall be filed between July first and April**
67 **fifteenth of each fiscal year. For all fiscal years beginning on or after**
68 **July 1, 2006, applications to claim the adoption tax credit for special**
69 **needs children who are not residents or wards of residents of this state**
70 **at the time the adoption is initiated shall be filed between July first**
71 **and December thirty-first of each fiscal year.**

72 [4.] **5.** Notwithstanding any provision of law to the contrary, any
73 individual or business entity may assign, transfer or sell tax credits allowed in
74 this section. Any sale of tax credits claimed pursuant to this section shall be at
75 a discount rate of seventy-five percent or greater of the amount sold.

76 [5.] **6.** The director of revenue shall establish a procedure by which, for
77 each fiscal year, the cumulative amount of tax credits authorized in this section
78 is equally apportioned among all taxpayers within the two categories specified in
79 subsection 2 of this section claiming the credit in that fiscal year. To the
80 maximum extent possible, the director of revenue shall establish the procedure
81 described in this subsection in such a manner as to ensure that taxpayers within
82 each category can claim all the tax credits possible up to the cumulative amount
83 of tax credits available for the fiscal year.

84 [6. The director of revenue shall submit to the general assembly, by
85 January 1, 2005, and each succeeding year, information by income levels of those
86 individual taxpayers who have qualified and claimed the credit authorized in this
87 section, regardless of whether those taxpayers have assigned, transferred, or sold

88 such credits. The information shall indicate the number of such taxpayers with
89 federal adjusted gross income in the immediately preceding tax year of less than
90 one hundred fifty thousand dollars, of one hundred fifty thousand dollars to and
91 including one hundred ninety thousand dollars, and of more than one hundred
92 ninety thousand dollars.]

93 **7. For all tax years beginning on or after January 1, 2006, a tax**
94 **credit may be claimed in an amount equal to up to fifty percent of a**
95 **verified contribution to a qualified agency and shall be named the**
96 **"children in crisis" tax credit. The minimum amount of any tax credit**
97 **issued shall not be less than fifty dollars and shall be applied to taxes**
98 **due under chapter 143, RSMo, excluding sections 143.191 to 143.265,**
99 **RSMo. A contribution verification shall be issued to the taxpayer by**
100 **the agency receiving the contribution. Such contribution verification**
101 **shall include the taxpayer's name, Social Security number, amount of**
102 **tax credit, amount of contribution, the name and address of the agency**
103 **receiving the credit, and the date the contribution was made. The tax**
104 **credit provided under this subsection shall be initially filed in the year**
105 **in which the verified contribution is made.**

106 **8. The cumulative amount of the tax credits redeemed shall not**
107 **exceed the unclaimed portion of the resident adoption category**
108 **allocation as described in this section. The director of revenue shall**
109 **determine the unclaimed portion available. The amount available shall**
110 **be equally divided among the agencies meeting the definition of**
111 **qualified agency to be used towards tax credits issued. In the event tax**
112 **credits claimed under one agency do not total the allocated amount for**
113 **that agency, the unused portion for that agency will be made available**
114 **to the remaining agencies as needed. In the event the total amount of**
115 **tax credits claimed exceeds the amount available, the amount redeemed**
116 **shall be apportioned equally to all eligible taxpayers claiming the**
117 **credit. After all children in crisis tax credits have been claimed, any**
118 **remaining unclaimed portion of the reserved allocation for adoptions**
119 **of special needs children who are residents or wards of residents of**
120 **this state shall then be made available for adoption tax credit claims**
121 **of special needs children who are not residents or wards of residents**
122 **of this state at the time the adoption is initiated.**

123 **9. Prior to December thirty-first of each year, the entities listed**
124 **under the definition of qualified agency shall apply to the department**

125 of social services in order to verify their qualified agency status. Upon
126 a determination that the agency is eligible to be a qualified agency, the
127 department of social services shall provide a letter of eligibility to such
128 agency. No later than February first of each year, the department of
129 social services shall provide a list of qualified agencies to the
130 department of revenue. All tax credit applications to claim the
131 children in crisis tax credit shall be filed between July first and April
132 fifteenth of each fiscal year. A taxpayer shall apply for the children in
133 crisis tax credit by attaching a copy of the contribution verification
134 provided by a qualified agency to such taxpayer's income tax return.

135 10. The tax credits provided under this section shall be subject
136 to the provisions of section 135.333.

137 11. (1) In the event a credit denial, due to lack of available
138 funds, causes a balance due notice to be generated by the department
139 of revenue, or any other redeeming agency, the taxpayer will not be
140 held liable for any penalty or interest, provided the balance is paid, or
141 approved payment arrangements have been made, within sixty days
142 from the notice of denial.

143 (2) In the event the balance is not paid within sixty days from
144 the notice of denial, the remaining balance shall be due and payable
145 under the provisions of chapter 143, RSMo.

146 12. The director shall calculate the level of appropriation
147 necessary to issue all tax credits for nonresident special needs
148 adoptions applied for under this section and provide such calculation
149 to the speaker of the house of representatives, the president pro
150 tempore of the senate, and the director of the division of budget and
151 planning in the office of administration by January thirty-first of each
152 year.

153 13. The department may promulgate such rules or regulations as
154 are necessary to administer the provisions of this section. Any rule or
155 portion of a rule, as that term is defined in section 536.010, RSMo, that
156 is created under the authority delegated in this section shall become
157 effective only if it complies with and is subject to all of the provisions
158 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
159 section and chapter 536, RSMo, are nonseverable and if any of the
160 powers vested with the general assembly pursuant to chapter 536,
161 RSMo, to review, to delay the effective date, or to disapprove and annul

162 a rule are subsequently held unconstitutional, then the grant of
163 rulemaking authority and any rule proposed or adopted after August
164 28, 2006, shall be invalid and void.

165 14. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

166 (1) The provisions of the new program authorized under
167 subsections 7 to 12 of this section shall automatically sunset six years
168 after the effective date of this section unless reauthorized by an act of
169 the general assembly; and

170 (2) If such program is reauthorized, the program authorized
171 under this section shall automatically sunset twelve years after the
172 effective date of the reauthorization of this section; and

173 (3) This section shall terminate on September first of the
174 calendar year immediately following the calendar year in which the
175 program authorized under this section is sunset.

135.333. 1. Any amount of tax credit which exceeds the tax due **or which**
2 **is applied for and otherwise eligible for issuance but not issued** shall not
3 be refunded but may be carried over to any subsequent taxable year, not to
4 exceed a total of five years for which a tax credit may be taken for each child
5 adopted.

6 2. Tax credits that are assigned, transferred or sold as allowed in section
7 135.327 may be assigned, transferred or sold in their entirety notwithstanding
8 the taxpayer's tax due.

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